REMARKS

This is responsive to the outstanding Office Action issued November 15, 2006. Claims 1-18 were pending in the application. All claims were rejected. Applicant believes that application is in a condition for allowance. Applicant respectfully requests notice to that effect.

The claims were rejected under 35 U.S.C. §101 as being drawn to non-statutory subject matter. In particular, the Examiner found that "Applicant's undefined input and output references are just such abstract ideas". More specifically, the claims needed to be drawn to a practical application that must be "useful, concrete and tangible".

Applicant has included the practical use in the preamble found in all dependant claims, namely:

> "A method of transforming of data representing quantifiable discrete series of consequences of action through a series of calculations into a determination as to positioning a corporation for the future ~~application of business assets~~, comprising the steps of:"

Such language was also placed into the claims as a limitation. Antecedent basis is found in the paragraph bridging pages 1 and 2 of the application. Moreover, each of the body of each of the claims has previously been amended to include the language:

> "of an arc having a center describing at least one member selected from the group consisting of: an innovation, an emerging trend, a new policy and a new product"

Antecedent basis is found on page 11 of the application, definition of center. And to further include the language:

; and

predicting events causally connected to the center.

Antecedent basis is found throughout the application, including on pages 13 and 15, definitions of implications and wheel. The claims, being drawn to a practical application, have been amended to overcome the rejection under 35 U.S.C. §101. Applicant respectfully requests notice to that effect.

Reliance on the old stand-by "broadest reasonable interpretation," has neglected to take into account that nearly everything is abstract if taken far enough. The concept of money, "dollar" as used in *Warmerdam*, is highly abstract. Other than a unit of measure that is undergoing constant fluctuation in a largely unpredictable manner, what exactly is a dollar? The dictionary defines money as "of or pertaining to capital or finance," which in the words of the Examiner, could be anything. Even if the other *Warmerdam* language of a numerical representation of dollars is included, a particular number of an abstract thing is just a bigger abstract thing.

The problem with the use of the standard, "broadest reasonable interpretation," in this case rests not with interpretation, but rather reasonableness of the interpretation. The Office Action uses the language of *Warmerdam* and makes believe that the precision is so tight and so clear that it could be calculated to a perfect degree of certainty. This is not reasonable as even the underlying premise of "dollar" lacks such precision. The Court in *Warmerdam* did not adopt such a narrow definition as to

be non-functional under any circumstance. The Court in *Warmerdam* found particular importance in the fact that the results have been "accepted and relied upon by regulatory authorities." The degree of certainty therefore is not something that must be absolute, but rather something that is a "useful, concrete, and tangible result."

As an example of the over zealous argument of abstractness being presented against the applicant, the Office Action states that "business asset" is abstract because it "could be anything". Office Action page 8. Yet, around the world "business asset" is useful, concrete and tangible enough that balance sheets are prepared using nothing more than "assets" and "liabilities", entire taxation systems are built upon such concepts, and yes, companies are bought and sold at fixed prices arrived at from calculations based in part upon "business assets". Specific share prices was concrete enough in *Warmerdam*. From "assets", "liabilities" and number of shares, any ordinary accountant around the world can arrive at a share price. The entire financial market relies upon being able to identify "business assets" and such term is not so abstract that people do not rely on it. The world economy would come crashing to a halt if it agreed with the position that the term "business asset" is so abstract that it is not useful, concrete and tangible.

The point is use of the "broadest reasonable interpretation" standard has run amuck. The standard is not, "broadest interpretation" nor is it for the purpose of denying patents to deserving applicants rightfully entitled under the United States Constitution to protect their ideas. The word "reasonable" is not a mere waste of paper

space wherever it may be printed. It has real life meaning, not to be avoided with abstract argument in an office action.

The claim language "an innovation", "an emerging trend", "a new policy", "a new product" and "event" are no more abstract than "dollar" in *Warmerdam*. Perhaps the Examiner is more comfortable with the concept of "dollar" due to experience with it, but it is still abstract and arbitrary. (At no moment in time has everyone agreed as to the true value of the dollar. There is always a buyer and seller on the currency market each of whom think they are getting the better end of the deal.) Perhaps the Examiner has not written corporate policies and has less comfort with whether "policy" is abstract or concrete. However, the United States Patent Office considers "policies" useful, concrete and tangible enough that it has many of its own. The same can be said about each of the terms that the Examiner is challenging in the Office Action. Moreover, attacking such terms avoids the larger picture.

The question is whether the invention is concrete and tangible enough to yield a useful result? This invention is useful, concrete, and tangible enough that it is on the market being sold and used by corporate America. Many governmental agencies are using it as well. Thank goodness the marketplace does not agree that the invention has not been reduced to practice. The tool is used to predict events before they occur, a highly useful piece of information if one is contemplating making **any** decision. For instance, one wishing to drive somewhere "predicts" the car will start if the key is placed in the ignition and rotated. The car starting is hardly a matter of certainty, but the prediction is still useful enough that we try using the key. Life would be untenable if

if such predictions couldn't be made - ever. Complex decisions are far easier with high powered tools such as this invention, a useful, concrete and tangible invention.

In the present case, the invention is an algorithm that is designed to look out into and evaluate possible future events. The term "events" is no more abstract than the concept of "dollar". Such terms are both concrete enough that people plan their lives about them. Corporations, using applicant's invention, make decisions based upon the results from this invention.

Applicant believes the Examiner may benefit from a demonstration of the invention. Applicant requests an opportunity to demonstrate the invention, preferably live and on-line.

CONCLUSION

It is respectfully submitted that, with the present amendments to the claims and in light of the above remarks, all of the presently pending claims should be seen to be fully supported by the present specification and to define an invention patentable over all of the art of record, whether taken separately or in any combination. The prompt issuance of a formal Notice of Allowance is seen to be in order and is solicited to be forthcoming.

Should the Examiner be of the opinion that any minor matters remain to be settled prior to the issuance of a Notice of Allowance, a telephone call to the

undersigned attorney of record is respectfully invited to assure prompt resolution thereof. Counsel may be reached at: **(763) 763-862-8987.**

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